

REMARKS

This Amendment and Response is being filed in response to the Notice, dated June 24, 2008 ("Notice"). Claims 1 and 3-16 are pending. Claim 6 is currently amended. Claims 18-22 were withdrawn by virtue of the previous Election and Amendment. Claims 2 and 17 were previously cancelled. No new matter is added. Examination of the claims in view of the ensuing remarks is respectfully requested.

Claim 6 has been amended to recite specific polypeptides, derivatives or analogues thereof according to the disclosure of Claim 1. This amendment of Claim 6 is made pursuant to the Examiner Interview that took place between the Examiner and the undersigned on June 23, 2008, during the pendency of the Notice.

In the prior Restriction Requirement, the Examiner required election among groups of the claimed invention described in Groups I-V under 35 U.S.C. §§121 and 372. These Groups were noted as follows:

- I. Claims 1-16, drawn to sundry apoE₁₄₁₋₁₄₉ tandem repeat polypeptides;
- II. Claim 18, drawn to an agent capable of increasing the biological activity of an apoE₁₄₁₋₁₄₉ tandem repeat polypeptide;
- III. Claim 19, drawn to a method of preventing/treating viral infection by administering apoE₁₄₁₋₁₄₉ tandem repeat polypeptides;
- IV. Claims 20 and 21, drawn to a nucleic acid encoding sundry apoE₁₄₁₋₁₄₉ tandem repeat polypeptides; and
- V. Claim 22, drawn to a method of preventing/treating viral infection by administering viral infection by administering a nucleic acid encoding apoE₁₄₁₋₁₄₉ tandem repeat polypeptides.

In addition, the Examiner noted that should Group I be elected, Applicant must also elect a single polypeptide (e.g., one of SEQ. ID NOS. 3, 4, 5, 6, etc.). The

Examiner also noted that this election is a restriction requirement and not a species election.

Applicant has previously elected the embodiment of the instant invention described in Group I, upon which Claims 1 and 3-16 are readable, for prosecution on the merits. Through the current amendment to Claim 6, and in view of the other pending claims, Applicant has also elected SEQ ID NOS. 3, 4, 5, 55 and 66. This is in response to the Examiner's sub-restriction of the Group I claims and is made pursuant to the Examiner Interview that took place during the pendency of the January 9, 2008 Office Action and the Examiner Interview that took place on June 23, 2008. Applicant continues to reserve the right to pursue the subject matter of Groups II through V in one or more divisional applications.

The foregoing elections notwithstanding, Applicant respectfully re-states its traverse of the restriction requirement and submits that it is improper.

Each of the "inventions" identified by Examiner in the Restriction Requirement includes one or more of the same corresponding special technical features. Specifically, each of the "inventions" identified by the Examiner includes a polypeptide, derivative or analogue thereof comprising a tandem repeat of apoE141-149 of SEQ ID No 2 or a truncation thereof, in which at least one Leucine (L) residue of SEQ ID No. 2 is replaced by specific amino acids with side chains comprising at least 4 carbon atoms and at least one nitrogen atom (i.e., tryptophan, arginine or lysine). These specific leucine substitutions were found by the inventors to confer unanticipated and previously unreported anti-viral activity on the resultant polypeptides. This single unifying feature applies equally to the Examiner's requirement that Applicant elect between the Group I-V "inventions" as it does to the Examiner's sub-restriction of the Group I claims. It is respectfully submitted that this feature establishes unity of invention among the various Groups and the sub-groups of the Group I claims.

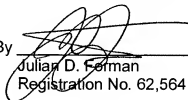
In addition, the Examiner cited U.S. Patent Application Publication No.

2002/164789 to Laskowitz at al. in support of his view that the pending claims lack a special technical feature. While the Laskowitz reference may be said to discuss apoE141-149 tandem repeat polypeptides, it does not disclose, either explicitly or inherently, the unifying feature of Applicant's invention, namely that specific leucine substitutions confer previously unreported anti-viral activity upon the resultant polypeptides.

All of the claims in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
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